

April 7, 1998

Doris Roush
Streets and Sanitation Manager
City of Anaheim
P. O. Box 3222
Anaheim, CA 92803

RE: ADMINISTRATIVE CIVIL LIABILITY (ACL) COMPLAINT NO. 98-59

Dear Ms. Roush:

This is to confirm the discussions you had with Kurt Berchtold, our Assistant Executive Officer, regarding the above-referenced ACL Complaint. Based on additional information provided to us at the pre-hearing meeting on March 26, 1998, the Executive Officer is proposing to reduce the amount of the original Complaint from \$10,000 to \$5,000, provided that you waive your right to a hearing. If you agree to this, please sign the attached waiver and return it to us, together with a check or money order for \$5,000 payable to the State Water Resources Control Board.

If you have any questions, please contact me at 909-782-3238.

Sincerely,

Michael J. Adackapara, Chief
DoD/Storm Water Units

Enclosure: Waiver of Hearing form

STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SANTA ANA REGION

In the matter of:)
)
City of Anaheim)
Liability)
200 S. Anaheim Boulevard)
Ahaheim, CA 92805)
_____)

Complaint No. 98-59

for

Administrative Civil

YOU ARE HEREBY GIVEN NOTICE THAT:

1. You are alleged to have violated provisions of law for which the California Regional Water Quality Control Board, Santa Ana Region (hereinafter Board), may impose liability under Section 13385 of the California Water Code.
2. A hearing concerning this Complaint will be held before the Board within sixty days of the date of issuance of this Complaint. The hearing in this matter has been scheduled for the Board's regular meeting on April 17, 1998 at the City Council Chambers, City of Corona, California. You or your representative will have an opportunity to appear and be heard, and to contest the allegations in this Complaint and the imposition of civil liability by the Board. An agenda for the meeting will be mailed to you not less than 10 days before the hearing date.
3. At the April 17, 1998 hearing, the Board will consider whether to affirm, reject or modify the proposed administrative civil liability or whether to refer the matter to the Attorney General for recovery of judicial civil liability.
4. The City of Anaheim (City) is a co-permittee under the Orange County Areawide Urban Storm Water Runoff Permit; Waste Discharge Requirements Order No. 96-31, NPDES No. CAS618030 (Permit), adopted by the Board on March 8, 1996; and is subject to the terms of that Permit.

5. The Permit requires the City to prohibit all illicit/illegal discharges from entering the municipal separate storm sewer systems, including non-storm water discharges from public agency activities. The Permit also requires the City to implement best management practices (BMP) to reduce the discharge of pollutants to waters of the U.S. to the maximum extent practicable.
6. On July 7, 1997, Caltrans employees observed a street sweeping truck belonging to the City discharging trash and wastewater into a cross culvert of I-5 at the intersection of Midway Drive and Palm Street. The discharges to the culvert in this area enter the storm drain which is tributary to the Santa Ana River. This constituted a discharge of non-storm water containing pollutants to the waters of the U.S., which is a discharge prohibited by the Permit. Street sweeping is a required BMP that when properly implemented (collection of debris, water, trash and sediments and disposal at an approved disposal site), reduces pollutants within storm water discharges to surface water bodies. The discharge of the collected waste water and trash to the storm drain system is in direct contravention to this BMP and the City's Permit. The City's supervisor for the street sweeping crew indicated to Caltrans employees that this type of discharge is a common practice for the City. This statement further aggravates the City's culpability in this case. The City violated the Permit, the California Water Code and the Clean Water Act by discharging polluted non-storm water and other wastes to waters of the U.S.
7. Section 13385 (a)(2) provides that any person who violates waste discharge requirements shall be civilly liable. Section 13385 (c) provides that civil liability may be administratively imposed by a regional board in an amount not to exceed ten thousand dollars (\$10,000) for each day the violation occurs.
8. Pursuant to Section 13385, the City is civilly liable in the amount of \$10,000 (one day of violation) for the violation cited in Paragraph 6 above.

9. Section 13385 (e) specifies factors that the Board shall consider in establishing the amount of civil liability. After consideration of those factors, the Executive Officer proposes civil liability be imposed on the City by the Board in the amount of \$10,000 for the violation cited above.

WAIVER OF HEARING

You may waive your right to a hearing. If you wish to waive the hearing, please sign the attached waiver and return it, together with a check or money order payable to the State Water Resources Control Board for the amount of civil liability proposed in Paragraph 9 above, to:

Santa Ana Regional Water Quality Control Board
3737 Main Street, Suite 500
Riverside, CA 92501-3339

If you have any questions, please contact Michael Adackapara, Chief of the Board's Storm Water Section, at (909) 782-3238, or contact the Regional Board's staff counsel, Ted Cobb, at (916) 657-0406.

Date

Gerard J. Thibeault
Executive Officer

In the matter of:)	Complaint No. 98-59
)	for
City of Anaheim)	Administrative Civil
Liability)	
200 S. Anaheim Boulevard)	
Anaheim, CA 92805)	

WAIVER OF HEARING

I agree to waive the City of Anaheim's right to a hearing before the Santa Ana Regional Water Quality Control Board with regard to the violations alleged in Complaint No. 98-59. I have enclosed a check or money order, made payable to the State Water Resources Control Board in the amount of the civil liability proposed in Paragraph 9 of Complaint No. 98-59. I understand that I am giving up the City's right to be heard and to argue against allegations made by the Executive Officer in this complaint, and against the imposition of, and the amount of, the liability proposed.

Date

for the City of Anaheim

March 13, 1998

Jim Ruth, City Manager
City of Anaheim
200 S. Anaheim Boulevard
Anaheim, CA 92805

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. 98-59

Dear Mr. Ruth:

We are enclosing a certified copy of Complaint No. 98-59 proposing administrative civil liability of \$10,000 for violations of Regional Board Order No. 96-31, NPDES NO. CAS618030. A public hearing on this matter has been scheduled for the April 17, 1998 Regional Board meeting at the City Council Chambers, City of Corona, California. The staff report regarding this complaint and the meeting agenda will be mailed to you prior to the Board meeting.

You have the option to settle and waive your right to a hearing. If you choose to waive your right to a hearing, please sign the enclosed waiver form and submit it to this office prior to March 27, 1998 with a check or money order for \$10,000. The check or money order should be made payable to the State Water Resources Control Board.

If you do not wish to waive your right to a hearing, I have tentatively scheduled a pre-hearing meeting at the Regional Board office for March 20, 1998 at 10:00 a.m. At that time, you may submit information that may not have been previously available to staff regarding this incident. The information should address the following:

1. Nature, circumstances, extent, and gravity of the violation;
2. Your ability to pay the proposed assessment;
3. Any prior history of violations;
4. Your degree of culpability;

5. Economic benefit or saving; and

6. Such other matters as justice may require.

If you have any questions regarding this Complaint, you may contact Mike Adackapara at 909-782-3238, or Laurie Taul at 909-782-4906. All legal questions should be referred to our legal counsel, Ted Cobb, at 916-657-0406.

Sincerely,

Gerard J. Thibeault
Executive Officer

Enclosures: Complaint No. 98-59 and Waiver Form

CC: City of Anaheim - Doris Roush
City of Anaheim - Mark Komoto
Orange County Facilities & Resources Department - Chris Crompton
Caltrans, District 12, Construction Branch - Lee Haber
Riverside County Flood Control and Water Conservation District
- Mark Wills
San Bernardino County Stormwater Program - Naresh Varma
State Water Resources Control Board, Division of Water Quality
- Bruce Fujimoto
State Water Resources Control Board, Office of the Chief Counsel
- Ted Cobb
U. S. Environmental Protection Agency, Region 9 (W-5-3) - Ken
Greenberg
U. S. Environmental Protection Agency, Region 9 (W-5-1)
- Eugene Bromley

City of Anaheim
ACL, Order No. 98-59

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March 10, 1998